

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNIVERSITY OF MASSACHUSETTS)
and CARMEL LABORATORIES, LLC,)

Plaintiffs,)

v.)

L'ORÉAL USA, INC.,)

Defendant.)

Civil Action No. 17-868-CFC

[L'ORÉAL USA's PROPOSED] VERDICT FORM

In answering these questions and filling out this Verdict Form, you are to follow all of the instructions I have given you and the instructions provided throughout the form. Your answer to each question must be unanimous. Please refer to the Final Jury Instructions for guidance on the law applicable to the subject matter covered by each question.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdict in this case.

QUESTION 1:

Have Plaintiffs proven, by a preponderance of the evidence, that L'Oréal USA infringed any Asserted Claim in view of Final Jury Instruction No. 4? Please add a check to indicate your answer.

YES (in favor of Plaintiffs) _____

NO (in favor of L'Oréal USA) _____

If you have answered “YES” to Question 1, then please continue to answer Question 2. Otherwise, continue to Question 3.

QUESTION 2:

Please identify the bases for why you have found one or more of the
Asserted Claims infringed.

For each infringement theory set forth below, check all applicable boxes.

		Direct Infringement	Indirect Infringement
'327 Patent	Claim 1		
	Claim 3		
	Claim 5		
	Claim 6		
	Claim 7		
'513 Patent	Claim 1		
	Claim 3		
	Claim 5		
	Claim 6		
	Claim 7		

Continue to Question 3.

QUESTION 3:

What do you find to be the invention date for the Patents-in-Suit in view of Final Jury Instruction Nos. [6.4, 6.5, and 6.6]?

Month Day Year

Continue to Question 4.

QUESTION 4:

Has L'Oréal USA proven, by clear and convincing evidence, that one or more of the Asserted Claims are invalid in view of Final Jury Instruction No. [6]? Please add a check to indicate your answer.

YES (in favor of L'Oréal USA) _____

NO (in favor of Plaintiffs) _____

If you have answered "YES" to Question 4, then please continue to answer Question 5. Otherwise, continue to Question 6.

QUESTION 5:

Please identify the bases for why you have found one or more of the Asserted Claims invalid.

For each invalidity theory set forth below, check all applicable boxes.

		Anticipation	Obviousness	Indefiniteness	Written Description	Enablement
'327 Patent	Claim 1					
	Claim 3					
	Claim 5					
	Claim 6					
	Claim 7					
'513 Patent	Claim 1					
	Claim 3					
	Claim 5					
	Claim 6					
	Claim 7					

Continue to Question 6.

QUESTION 6:

This question relates to patent eligibility, which is a separate issue in this case. Has L'Oréal USA proven, by clear and convincing evidence, that any of the Asserted Claims involved only technology and actions that a person of ordinary skill in the field would have considered to be well-understood, routine, and conventional as of the invention date in view of Final Jury Instruction No. [6.16]?

If you find the Claim to involve technology and actions that were well-understood, routine, and conventional as of the invention date, answer "YES" otherwise, answer "NO." A "YES" is in favor of L'Oréal USA, and a "NO" is in favor of Plaintiffs.

'327 Patent

Claim 1 _____

Claim 3 _____

Claim 5 _____

Claim 6 _____

Claim 7 _____

'513 Patent

Claim 1 _____

Claim 3 _____

Claim 5 _____

Claim 6 _____

Claim 7 _____

Continue to Question 7 ONLY for any claims that you found infringed in Question 1 and did not find invalid in Question 4. Otherwise, please STOP here and sign the last page of this Verdict Form.

QUESTION 7:

For any Asserted Claim that you found infringed and not invalid, have Plaintiffs proven, by a preponderance of the evidence, that L'Oréal USA's infringement was willful in view of Final Jury Instruction No. [5 or 7]?

If you find the Claim willfully infringed, answer "YES," otherwise, answer "NO." A "YES" is in favor of Plaintiffs, and a "NO" is in favor of L'Oréal USA.

'327 Patent

Claim 1 _____

Claim 3 _____

Claim 5 _____

Claim 6 _____

Claim 7 _____

'513 Patent

Claim 1 _____

Claim 3 _____

Claim 5 _____

Claim 6 _____

Claim 7 _____

Continue to Questions 8 and 9 to assess damages ONLY if you have determined an Asserted Claim was infringed and not proven invalid. Your answer to Question 7 has no bearing on your answer(s) to Questions 8 and 9.

QUESTION 8:

As to those uses of accused products for which you determined L'Oréal USA directly infringed the Patents-in-Suit in view of Final Jury Instruction No. 4.2, what amount do you award to Plaintiffs in view of Final Jury Instruction No. [8]?

\$ _____
**Reasonable Royalty Damages For
Direct Infringement**

*If you have awarded damages in
Question 8, you must also answer Questions 8(a) and 8(b).*

QUESTION 8(a)

What was the royalty base you determined Plaintiffs proved by a preponderance of the evidence and that you applied in arriving at your damages award for direct infringement?

\$ _____
Royalty Base Applied

QUESTION 8(b)

What was the royalty rate you determined Plaintiffs proved by a preponderance of the evidence and that you applied in arriving at your damages award for direct infringement?

_____ %
Royalty Rate Applied

QUESTION 9:

As to those uses of accused products for which you determined L'Oréal USA indirectly infringed the Patents-in-Suit in view of Final Jury Instruction No. 4.3, what amount do you award to Plaintiffs in view of Final Jury Instruction No. [8]?

\$ _____
**Reasonable Royalty Damages For
Indirect Infringement**

*If you have awarded damages in
Question 9, you must also answer Questions 9(a) and 9(b).*

QUESTION 9(a):

What was the royalty base you determined Plaintiffs proved by a preponderance of the evidence and that you applied in arriving at your damages award for indirect infringement?

\$ _____
Royalty Base Applied

QUESTION 9(b):

What was the royalty rate you determined Plaintiffs proved by a preponderance of the evidence and that you applied in arriving at your damages award for indirect infringement?

_____ %
Royalty Rate Applied

You have now reached the end of the verdict form and you should review it to ensure that it accurately reflects your unanimous determinations. All jurors should then sign the verdict form in the spaces below and notify the Jury Officer that you have reached a verdict. The Foreperson should retain possession of the verdict form and bring it to the courtroom with the jury when the trial is reconvened.

Juror No. 1: _____ Date: _____

Juror No. 2: _____ Date: _____

Juror No. 3: _____ Date: _____

Juror No. 4: _____ Date: _____

Juror No. 5: _____ Date: _____

Juror No. 6: _____ Date: _____

Juror No. 7: _____ Date: _____

Juror No. 8: _____ Date: _____